

Application Serial No. 10/573,693
Attorney Docket No. 294-246 PCT/US
Response to May 29, 2008
Non-Final Office Action

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Claim 1. (Currently amended): An apparatus for breeding shellfish ~~such as mussels, oysters and like shellfish~~ to be bred in flowing water, the apparatus comprising

at least two mutually spaced apart floating bodies and/or ballast means, which floating bodies are mutually connected by connecting means, such that an open frame is formed by at least said connecting means, wherein at least between the floating bodies a series of breeding surfaces are provided, which breeding surfaces extend substantially parallel to each other above each other, the floating bodies having a substantially cylinder-shape and a longitudinal axis disposed at an angle relative to the breeding surfaces, the longitudinal axis extending substantially vertically during use.

Claim 2. (original): An apparatus according to claim 1, wherein the breeding surfaces are formed by rows of growing elements arranged substantially next to each other.

Claim 3. (original): An apparatus according to claim 2, wherein paths are provided between at least a number of rows of growing elements located next to each other.

Claim 4. (Currently amended): An apparatus according to claim 1, wherein the breeding surfaces are substantially manufactured from plastic, ~~in particular plastic mats or plates~~ provided with openings, such that shellfish can rest thereon and/or can attach thereto.

Claim 5. (Currently amended): An apparatus according to claim 1, wherein ~~on or near the breeding surfaces~~ means are provided for harvesting ~~from the breeding surfaces~~ shellfish growing thereon, said harvesting means disposed on or near the breeding surfaces.

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Claim 6. (**Currently amended**): An apparatus according to claim 1, wherein the frame is provided with supporting means on which the breeding surfaces, at least the growing elements, are mounted, such that at least parts of the breeding surfaces, ~~in particular the growing elements~~, are removable individually and/or in groups.

Claim 7. (Previously Presented): An apparatus according to claim 1, wherein on the breeding surfaces, upstanding edges are provided for preventing the shellfish being carried along from the breeding surfaces by flowing water.

Claim 8. (Previously Presented): An apparatus according to claim 1, wherein at least four floating bodies are provided, wherein the frame is substantially rectangular and wherein the breeding surfaces are situated between the floating bodies within the frame.

Claim 9. (**Currently amended**): An apparatus according to claim 1, wherein the distance between the floating bodies is ~~relatively large relative to the height of the frame, in particular~~ at least three times ~~the a height of the frame and preferably at least five times the height~~.

Claim 10. (**Currently amended**): An apparatus according to claim 1, wherein the breeding surfaces are situated ~~relatively closely above each other in proportion to the height of the frame~~ and the distance between the floating bodies, ~~in particular with an intermediate distance being~~ between 0.1 and 1 meter, ~~more in particular between 0.1 and 0.5 meter and preferably between 0.25 and 0.5 meter~~.

Claim 11. (**Currently amended**): An apparatus according to claim 1, wherein the floating bodies and/or ballast means are so designed that, with these, the apparatus, in open water, ~~in particular seawater~~, can be brought under water into a suspended position and is substantially self-lifting.

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Claim 12. (Previously Presented): An apparatus according to claim 1, wherein within the frame a number of subframes are provided, each provided with floating means and/or ballast means and/or lifting means for moving the subframes relative to the frame, with each subframe comprising a series of breeding surface parts situated above each other.

Claim 13. (**Currently amended**): An apparatus according to claim 1, wherein the floating bodies and/or means and ballast means are substantially formed by cylinder-shaped tanks, provided with pumping means for pumping seawater as ballast into and out of the tanks in a controlled manner during use.

Claim 14. (**Canceled**): ~~An apparatus according to claim 1, wherein the floating bodies are substantially cylinder shaped with a longitudinal axis including an angle with the breeding surfaces and during use extending preferably substantially vertically.~~

Claim 15. (**Currently amended**): A method for breeding shellfish ~~such as mussels, oysters and the like~~, wherein

i) an apparatus is provided with a number of breeding surfaces extending above each other and at least two floating bodies having a substantially cylinder-shape and a longitudinal axis disposed at an angle relative to the breeding surfaces;

ii) the apparatus and positioned substantially horizontally is positioned in open water with the breeding surfaces extending substantially horizontally and the longitudinal axis extending substantially vertically; and, in particular seawater, wherein

iii) shellfish and/or shellfish seed are provided on said breeding surfaces and are grown on the breeding surfaces, the apparatus being so designed with at least partly open sides that said water flows freely between and along the breeding surfaces for supplying food.

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Claim 16. (original): A method according to claim 15, wherein the apparatus is brought under a water surface into a substantially suspended position using floating bodies.

Claim 17. (Previously Presented): A method according to claim 15, wherein for harvesting shellfish from the breeding surfaces and/or maintenance of the apparatus, the apparatus is brought into a position floating substantially above the water, wherein the apparatus is approached using a vessel, and shellfish and/or shellfish seed are brought from said vessel onto the breeding surfaces and/or shellfish are brought from said breeding surfaces into said vessel and/or said maintenance is carried out from said vessel.

Claim 18. (Previously Presented): A method according to claim 15, wherein the apparatus is positioned at least 1 sea mile off a most nearby coast and preferably outside territorial waters